

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

OSCAR BANUELOS-ACOSTA,)
Petitioner,)
v.) 1:11CV736
ALVIN W. KELLER, JR.,)
Respondent.)

ORDER

On October 6, 2011, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 3, 4.) Within the time limitation set forth in the statute, Petitioner objected to the Recommendation. (See Doc. 6)

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.¹

IT IS THEREFORE ORDERED that this action is dismissed sua sponte without prejudice to Petitioner filing a new petition which corrects the defects of the current petition. **IT IS**

¹ It appears Petitioner has filed a new petition in 1:11CV953.

FURTHER ORDERED that Petitioner's request to proceed in forma pauperis is **DENIED** for being moot. A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 24th day of September, 2012.

William L. Osten, Jr.
United States District Judge